

Exhibit L

In the Matter Of:

United States vs

Google

MARK ISRAEL, PH.D.

March 14, 2024



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|---|--|
| <p>Page</p> <p>1 Q. And how do you determine what ad --</p> <p>2 what types of advertising should be included in</p> <p>3 the relevant market?</p> <p>4 A. Well, the burden, as I understand</p> <p>5 it, that would be on Plaintiffs' experts would be</p> <p>6 to show that they include enough to capture</p> <p>7 enough substitution to satisfy a hypothetical</p> <p>8 monopolist test.</p> <p>9 BY ATTORNEY NAKAMURA:</p> <p>10 Q. And do you agree that the</p> <p>11 hypothetical monopolist test is the right</p> <p>12 theoretical framework to use in this matter to</p> <p>13 determine the boundaries of a relevant product</p> <p>14 market?</p> <p>15 ATTORNEY EWALT: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: I think it's part</p> <p>18 of it. It's not all of it. It's -- but</p> <p>19 it's a piece of how you analyze markets.</p> <p>20 BY ATTORNEY NAKAMURA:</p> <p>21 Q. And what, then, are the other parts</p> <p>22 of what you would use to determine the boundaries</p> | <p>Page</p> <p>1 the most important constraints, not skipping over</p> <p>2 any to get to more distant constraints.</p> <p>3 Q. And what role, if any, does</p> <p>4 substitution in purchases make in helping you</p> <p>5 determine whether or not the Plaintiffs have</p> <p>6 proposed a proper relevant market for this case?</p> <p>7 A. I mean, things that are potential</p> <p>8 substitutes for advertisers or for publishers,</p> <p>9 probably to some degree for users -- although we</p> <p>10 can talk about that more -- are potentially</p> <p>11 products that should be in the market. And so if</p> <p>12 you find that there -- there's evidence of</p> <p>13 substitution by those -- one of the -- one or</p> <p>14 more of those parties and you find that the</p> <p>15 decision whether or not to include that product</p> <p>16 in your market matters to your conclusions, then</p> <p>17 my opinion is Plaintiffs would need to do the</p> <p>18 work to determine whether that product should be</p> <p>19 in or out based on the hypothetical monopolist</p> <p>20 test. And they have not done that work.</p> <p>21 Q. And when you say -- I want to --</p> <p>22 strike that.</p> |
| Page 95 | Page 97 |
| <p>Page</p> <p>1 of a relevant product market?</p> <p>2 A. I mean, for me, the overarching</p> <p>3 rule of all of it is you define the market that</p> <p>4 best captures the competitive alternatives and</p> <p>5 the competitive constraints relative to the</p> <p>6 conduct at issue. The -- so you need a -- a</p> <p>7 market definition that lets you analyze, in this</p> <p>8 case, what it -- what are the constraints on</p> <p>9 Google and the behavior described in the case.</p> <p>10 That's a broad economic framework</p> <p>11 but -- but one that I think guides everything.</p> <p>12 Hypothetical monopolist test is, then, a piece.</p> <p>13 Other pieces would include what I've called "the</p> <p>14 circle principle" in other cases, that you don't</p> <p>15 skip over a closer competition to include more</p> <p>16 distant competition.</p> <p>17 It would also -- I think that's --</p> <p>18 those are the ones I can think of. There may be</p> <p>19 more. But I think you -- the key is that it</p> <p>20 explains competition, and within that, you'd want</p> <p>21 to make sure it satisfies a hypothetical</p> <p>22 monopolist test and make sure that it includes</p> | <p>Page</p> <p>1 I want to understand more about</p> <p>2 what you mean by "potential substitutes for</p> <p>3 advertisers" first.</p> <p>4 Is it the case, in your</p> <p>5 opinion, that any substitution whatsoever, even</p> <p>6 one unit, would satisfy the criteria for -- for</p> <p>7 inclusion in the proper relevant market, in your</p> <p>8 opinion?</p> <p>9 ATTORNEY EWALT: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: No, I'm not saying</p> <p>12 any substitution means it's in the</p> <p>13 market. I'm saying if there's reasonable</p> <p>14 evidence in the record that it is a</p> <p>15 substitute, then -- and it matters to</p> <p>16 your conclusions, then it's Plaintiffs'</p> <p>17 job to decide if it's in or it's out.</p> <p>18 And they have not done that for a large</p> <p>19 number of products for which there is</p> <p>20 clear evidence in the record of</p> <p>21 substitution.</p> <p>22</p> |

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1 BY ATTORNEY NAKAMURA:

2 Q. I appreciate your further
3 commentary on what you believe Plaintiffs have
4 done, but that was not my question. My
5 question -- well, I guess I'll move to another
6 question.

7 My question is, What degree of
8 substitution would be sufficient, in your view,
9 by advertisers to lead you to the conclusion that
10 a particular type of advertising should be
11 included in a relevant proper market in this
12 case?

13 ATTORNEY EWALT: Objection to
14 form.

15 THE WITNESS: I mean, I can't
16 answer these without referring to
17 Plaintiffs because it's -- what I'm
18 commenting on is whether Plaintiffs have
19 met their burden to define a market.

20 The degree of substitution would
21 be to show that one can omit that
22 product -- demonstrate one can omit that

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1

9 BY ATTORNEY NAKAMURA:

10

21 Q. Do you believe it would have been
22 possible, given the data and documents in this

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Page

1 product and still satisfy the
2 hypothetical monopolist test and the
3 circle principle and still adequately
4 capture the set of products that are
5 important competitive constraints on
6 Google.

7 BY ATTORNEY NAKAMURA:

13 ATTORNEY EWALT: Objection to
14 form.

15

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1 case, to have tested for whether audio
2 advertisements could have been properly included
3 in a relevant market in this case?

4 ATTORNEY EWALT: Objection to
5 form and foundation.

6 THE WITNESS: I mean, I leave it
7 some to Plaintiffs for how they would go
8 about doing tests they haven't done.
9 But, in general, you -- you -- the
10 hypothetical monopolist test doesn't
11 require you to have data on every
12 possible product. It requires you to
13 actually test that the products you've
14 included are enough.

15 BY ATTORNEY NAKAMURA:

16 Q. At a minimum, how would you
17 describe what the -- what the hypothetical
18 monopolist test requires with respect to data?

19 ATTORNEY EWALT: Objection to
20 form.

21 THE WITNESS: Oh, I don't -- I
22 don't think there's any specific rule

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1 about what data you need that you can --
 2 I mean, there are a variety of ways to do
 3 the test: by looking at evidence on
 4 what's actually happened to prices, by
 5 looking on whatever evidence you have of
 6 substitution.

7 Economists are certainly in the
 8 business of trying to predict price
 9 effects based on the best data that we
 10 can have. Hypothetical monopolist test
 11 is basically saying Plaintiffs would need
 12 to do something to show that they have a
 13 reliable prediction of a price increase
 14 for a hypothetical monopolist of some
 15 market that they have defined. And
 16 Plaintiffs haven't done that.

17 BY ATTORNEY NAKAMURA:

18 Q. And is it your opinion that
 19 Plaintiffs have done nothing to provide a
 20 reliable prediction of a price increase for
 21 hypothetical market -- for a -- I'm sorry.

22 Is it your opinion that

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1 Plaintiffs' experts have done nothing to show
 2 that there would be a reliable prediction of a
 3 change in purchases as a result of a price
 4 increase?

5 ATTORNEY EWALT: Objection to
 6 form.

7 THE WITNESS: I'm sorry. I don't
 8 understand the question.

9 BY ATTORNEY NAKAMURA:

10 Q. Sure.

11 What, if anything, have
 12 Plaintiffs done, in your opinion, that would
 13 satisfy any part of a hypo -- hypothetical
 14 monopolist test?

15 A. I mean, I -- I'm happy to look at
 16 specific things. As I sit here, I -- I -- I
 17 can't see anything that they have done to show
 18 that, for example, there could be a SSNIP that
 19 doesn't include in-app or doesn't include social.

20 The specific things you like me to
 21 comment on, the report probably does, and I'm
 22 happy to, but I certainly see nothing that would

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1 let me conclude that there could be -- that there
 2 would be a SSNIP in the absence of these other
 3 products.

12 ATTORNEY EWALT: Objection to
 13 form.

15 ATTORNEY EWALT: Objection to
 16 form and foundation.

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[REDACTED]

11 BY ATTORNEY NAKAMURA:

[REDACTED]

17 ATTORNEY EWALT: Objection to
18 form.

19 [REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

15 Q. And so I understand that you were
16 retained by Google as a testifying economic
17 expert in the search litigation that went on in
18 the District of Columbia Federal Court; is that
19 correct?

20 A. Yes.

21 Q. And is all the testimony that you
22 provided in that case fully and completely

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| Page | Line | Change | Reason |
|------|------|--|----------------------|
| 417 | 22 | "make up the" should be "makeup, the" | Transcription error. |
| 418 | 1 | "the respondents looks" should be "the respondents, looks" | Transcription error |
| █ | █ | ████████████████████ | Transcription error. |
| █ | █ | ████████████████████ | Transcription error. |
| █ | █ | ████████████████████ | Transcription error. |
| █ | █ | ████████████████████ | Clarification. |
| █ | █ | ████████████████████ | Transcription error. |
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| █ | █ | ████████████████████ | Transcription error. |
| 477 | 12 | "a ad server" should be "an ad server" | Clarification. |
| █ | █ | ████████████████████ | Transcription error. |

I have inspected and read my deposition and have listed all changes and corrections above, along with my reasons therefor.

Date: 4/10/2024

Signature: Mak A. [Signature]